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ALEXANDER L. STEVAS,

No. 82-120

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

GREYHOUND LINES, INC.,

Petitioner,

v.

TRAILWAYS, INC., et al.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SUPPLEMENTAL BRIEF RELATING TO A CHANGE IN APPLICABLE LAW

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TABLE OF CONTENTS

	PAGE
Table of Authorities	ii
Preliminary Statement	1
I. THE CHANGES EFFECTED BY THE BRRA IN PRIOR LAW REMOVE WHATEVER STATUTORY BASES THERE WERE FOR THE JUDGMENT AND OPINION OF THE COURT BELOW	2
A. Statutory Changes	2
B. Legislative Purpose	4
C. Congressional Consideration of Bus Industry Structure and Alternatives to Uniform Entry Standards	6
II. ONCE THERE IS A CHANGE IN THE APPLICABLE LAW UNDER WHICH THE ACTIONS OF THE ICC WERE REVIEWED BELOW, THE OUTCOME OF THAT PRIOR REVIEW CAN NO LONGER STAND AND REMAND TO THE IMPLEMENTING AGENCY IS IN ORDER	9
CONCLUSION	10

TABLE OF AUTHORITIES

	PAGE
Cases	
Beltran v. Myers, 451 U.S. 625 (1981)	9
Bradley v. Richmond School Board, 416 U.S. 696 (1974)	9,10
Carpenter v. Wabash Ry. Co., 309 U.S. 23 (1940)	9
Costle v. Republic Steel Corp., 434 U.S. 1030 (1978)	9
Fusari v. Steinberg, 419 U.S. 379 (1975)	9
Greene v. United States, 376 U.S. 149 (1964)	10
Public Service Commission v. Federal Power Commission, 361 U.S. 195 (1959)	9
Thorpe v. Housing Authority of the City of Durham, 393 U.S. 268 (1969)	9
Statutes	
Bus Regulatory Reform Act of 1982, P.L. 97-261, 96 Stat. 1102 (Sept. 20, 1982)	*passim*
Motor Carrier Act of 1935, c. 498, 49 Stat. 543 (Aug. 9, 1935)	1,2
49 U.S.C. §10922(a)(2)	2,3
49 U.S.C. §10922(c)(1)(A)	3,9
49 U.S.C. §10922(c)(3)	3,4,9
49 U.S.C. §10922(e)(5)	7,9
49 U.S.C. §10922(i)	8
Miscellaneous	
Bus Regulatory Reform: Hearings Before the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation on H.R. 3662 and H.R. 3663, 97th Cong., 1st Sess. (Serial No. 97-17 June 3, 1981)	6
Deregulation of the Intercity Bus Industry: Hearing Before the Subcommittee on Surface Transportation of the Committee on Commerce, Science, and Transportation on H.R. 3663, 97th Cong., 2d Sess. (Serial No. 97-100 Mar. 8, 1982)	6,7

Ex Parte No. 55 (Sub—No. 56), *Applications for Operating Authority—Motor Passenger Carriers*, 47 Fed. Reg. 42934 (Sept. 29, 1982)..... 2

Ex Parte No. MC-133, *Entry Flexibility—Regular-Route Passenger Service*, 44 Fed. Reg. 64845 (Nov. 8, 1979)..... 7

Joint Explanatory Statement of the Committee of Conference, Bus Regulatory Reform Act of 1982, H.R. Rep. No. 97-780, 97th Cong., 2d Sess. (Aug. 19, 1982), *reprinted in* 128 Cong. Rec. H 6674 (Aug. 19, 1982) ("Conference Report")..... 4

Senate Comm. on Commerce, Science, and Transportation, Bus Regulatory Reform, S. Rep. No. 97-411, 97th Cong., 2d Sess. (May 20, 1982) ("Senate Report")..... 4,5,6,7,8

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Preliminary Statement

Petitioner, Greyhound Lines, Inc. ("Greyhound"), pursuant to Rule 22(6), submits this Supplemental Brief to advise the Court that since the petition for a writ of certiorari was filed herein, the "Bus Regulatory Reform Act of 1982," P.L. 97-261, 96 Stat. 1102 ("BRRA") has become law.* The BRRA makes fundamental and radical changes in the law applicable to motor carriers of passsengers (which had been governed by provisions of the Motor Carrier Act of 1935 ("1935 Act") which the District of Columbia Circuit construed and applied in the judgment and opinion sought to be reviewed) among them the reduction of entry barriers, including for existing bus companies seeking to expand their services.

Under the BRRA, Greyhound's applications for new and expanded services are subject to the same procedural and substantive standards as are those of other carriers. Congress considered

* The BRRA was signed September 20, 1982; its effective date is November 19, 1982. BRRA §31(a). Excerpts from the BRRA appear in a Supplemental Appendix.

industry structure, and was urged by respondent Trailways, Inc. ("Trailways") to treat Greyhound's applications as unique and requiring different treatment. Congress in legislating uniform standards clearly rejected such proposals.

The Interstate Commerce Commission ("ICC") is developing regulations and interpretations to effectuate the provisions and purposes of the BRRA, and has issued a notice of proposed rulemaking in Ex Parte No. 55 (Sub-No. 56), *Applications for Operating Authority—Motor Passenger Carriers*, 47 Fed. Reg. 42934 (Sept. 29, 1982).

It is thus singularly appropriate for the Court to grant the writ, vacate the judgment and opinion sought to be reviewed, and remand this matter to the District of Columbia Circuit with a direction to remand to the ICC with a simple instruction to make such disposition thereof as the ICC deems appropriate in light of the changes in applicable law effected by the BRRA.

I. THE CHANGES EFFECTED BY THE BRRA IN PRIOR LAW REMOVE WHATEVER STATUTORY BASES THERE WERE FOR THE JUDGMENT AND OPINION OF THE COURT BELOW

The BRRA is the latest in a series of acts substantially deregulating most aspects of transportation. The BRRA reflects changes in the economic conditions for passenger carriers, in economic policy and in regulatory philosophy. It makes a sharp and explicit break with the regime of pervasive state and federal regulation which developed in the aftermath of the 1935 Act, and marks a profound shift to reliance on competitive market forces.

A. Statutory Changes

Prior law required the ICC affirmatively to find that "the transportation to be provided under the certificate is or will be *required* by the present or future *public convenience and necessity*," 49 U.S.C. §10922(a)(2) (emphasis added). Pet. 2-3.* This was the provision characterized in the District of Columbia Circuit's opin-

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* References to pages in the Supplemental Appendix are shown as "S.A.__," to those in the Petition as "Pet. __" and to those in its Appendix as "App.__."

ion as the principal limitation on the ICC's discretion to grant a carrier's route applications. App. 7. BRRA 6(a) deletes references to motor carriers of passengers from 49 U.S.C. §10922(a), and thereby deletes for them the "public convenience and necessity" test. S.A. 3. BRRA 6(b) then adds a new subsection 49 U.S.C. §10922(c), which reads in pertinent part:

"(c) (1) Except as provided in this section—

"(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation . . . as a motor common carrier of passengers . . . if the Commission finds that the person is fit, willing and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

* * *

"(3) In making any findings relating to public interest under paragraphs (1)(A) and (2)(B) of this subsection, the Commission shall consider, to the extent applicable—

"(A) the transportation policy of section 10101(a) of this title;

"(B) the value of competition to the traveling and shipping public.

"(C) the effect of issuance of the certificate on motor carrier of passenger service to small communities; and

"(D) whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system; except that diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the

> regular-route passenger service which the carrier provides over its entire regular-route system." S.A. 3–4.

These amendments materially change applicable law to liberalize entry by requiring persons opposing entry to show inconsistency with the public interest, for which showing evidence of diversion of revenues is insufficient of itself. Any distinction based on the size or identity of either applicant or protestant has been rejected.

B. Legislative Purpose

Although the material changes in applicable law appear clearly from the provisions quoted above, statements of the legislative purpose appearing both in the statute (BRRA §§2,3, S.A. 1–2) and in committee reports underscore the magnitude of the changes. In adopting the Senate version, the report of the Conference Committee makes clear that the entry provisions of the new statute (BRRA §6, S.A 3–6) will expedite and weigh the scales in favor of entry:

> ". . . First, the new evidentiary standard ('consistent with' rather than 'required by') will expedite the substantive analysis of the application. Second, *the provision creates a presumption that the grant of the application is consistent with the public interest.* This means that the burden will be on any protestant to provide sufficient evidence to negate the presumption of consistency." *Joint Explanatory Statement of the Committee of Conference, Bus Regulatory Reform Act of 1982*, H.R. Rep. No. 97-780, 97th Cong., 2d Sess. 36 (Aug. 19, 1982), *reprinted in* 128 Cong. Rec. H 6674, H 6684 (Aug. 19, 1982). (Emphasis supplied.)

The report which accompanied the Senate version provides a more expanded guide to the legislative purpose. *Senate Comm. on Commerce, Science, and Transportation, Bus Regulatory Reform*, S. Rep. No. 97-411, 97th Cong., 2d Sess. (May 20, 1982) ("Senate Report"). The Senate Report leaves no doubt that all carriers are subject to uniform, liberalized entry standards, and may expand their services:

> "*Section 3. Congressional findings*
>
> "The findings highlight the importance of a sound and

competitive bus industry and the need for that industry to meet the transportation needs of the citizens of this country. It is emphasized that the existing Federal and State regulatory structure has tended to impair, in certain circumstances, the ability of carriers to enter markets and to maximize use of equipment and opportunities to expand. The Committee finds that this overly protective regulation has caused diminished price and service competition. The ICC is given explicit direction to reduce regulation and to do everything possible to promote competition in the industry. It is through greater competition and reduced regulation that the goals of the national transportation policy can be best achieved." Senate Report 13.

* * *

"*Section 6. Motor carrier of passengers entry policy.*

"Section 6 of the bill adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers. The purpose of this subsection is to significantly reduce entry barriers for all forms of intercity bus service and to permit existing bus companies to expand their services and to provide more efficient interstate and intrastate services." Senate Report 15.

* * *

"This last test, impairment, is a systemwide test. The existing carrier must show that the proposed service will impair its ability to provide a substantial portion of its regular route service. In meeting this test a protestant would be required to establish that granting of the application would materially jeopardize its ability to continue operating a substantial portion of its entire regular route system. The 'entire regular route system' applies to any bus company and its subsidiaries and affiliates. The Committee believes that the public interest test can be an important tool in insuring that small community service and commuter bus service are not adversely affected by the eased entry standards in the bill. This factor, however, is not intended to undercut or undermine the basic policy objectives of new subsection 10922(c) to ease entry into the intercity bus industry. In fact, it should be noted that this impairment standard is only one of four

factors to be considered by the ICC in making its public interest determination. The other factors, including the value of competition, are to be given equal consideration by the ICC. . . . There is no reason to expect that motor carriers of passengers offering satisfactory and adequate services to satisfied customers would immediately upon the introduction of new service lose those passengers to the new carrier. The Committee wishes to emphasize that the *paramount consideration is the benefit derived by the public and not the protection of carriers. The success or failure of a carrier should be determined in the marketplace and not in the regulatory arena.*" Senate Report 17-18. (Emphasis supplied.)

C. Congressional Consideration of Bus Industry Structure and Alternatives to Uniform Entry Standards

In its opinion below, the District of Columbia Circuit spoke of an "in-depth study of the competitive structure of the intercity bus market to which an adjudicatory-type proceeding may not normally be conducive" (App. 18) and also observed "[t]he breadth of what on remand should be a careful examination of market structure and impact may prompt the Commission to permit the parties to introduce broad legislative-type evidence relevant to the issue of the overall impact of Greyhound authority over Trailways' operations" (App. 20). Since the opinion below was written, however, Congress has conducted just such an "in-depth study," and on that basis has authoritatively formulated transportation policy.

Congress heard "broad legislative-type evidence" from interested agencies, including the Department of Justice, the Federal Trade Commission and the ICC, and from carriers, including petitioner and Trailways, and considered the studies, views and recommendations of witnesses and staff, including Trailways' arguments for entry provisions discriminating against Greyhound.* Congress confronted

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* *See Bus Regulatory Reform: Hearings Before the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation on H.R. 3662 and H.R. 3663*, 97th Cong., 1st Sess. 57-82, 136-68, 307-42 (Serial No. 97-17 June 3, 1981) (*see* 314-15, 318-20, 322-27 [especially 324-25], 327-31, 334, 337, 340-41 for statements and testimony of Theodore Knappen, Senior Vice President, Trailways, Inc. and of William L. McCracken, Senior Vice President, Greyhound Lines, Inc.). *See also Deregulation of the Intercity Bus Industry: Hearing Before the Subcommit-*

significant competitive issues, including industry structure and what changes should be made in entry procedures, and, having made its judgment among the policy choices and arguments presented, enacted the BRRA.**

Congress addressed itself to the structural and competitive issues that concerned the District of Columbia Circuit below. Reviewing the historical development of the bus and trucking industries, the Senate observed:

> "Federal regulation of the trucking and bus industries was shaped to a significant degree by the economic conditions prevailing in the 1930s. . . .
>
> "It was a 'sign of the times' that falling prices and business failures should be linked, with excessive competition being held responsible for both conditions. . . .
>
> "Today, economic conditions are much different. . . . Competition is no longer viewed as a detriment to the stability of our national economy. Quite to the contrary, it is now considered an aid to economic stability. . . .
>
> * * *
>
> "The two industries also differ basically in their competitive structures. In the intercity bus industry, the two largest firms accounted for more than 80 percent of the Class I intercity industry revenues in 1980. No sector of the trucking industry is as concentrated. And, while poor marketplace performance is not an automatic consequence of such revenue concentra-

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tee on Surface Transportation of the Committee on Commerce, Science, and Transportation on H.R. 3663, 97th Cong., 2d Sess. 66-116, 150-90, 226-37 (Serial No. 97-100 March 8, 1982) (*see* 167-79 [especially 176], 185-90 and 226-32) for their testimony, statements and supplementary statements). The statements of Trailways before Congress raised the same issues as the unsworn comments of its counsel in an ICC proceeding, Ex Parte No. MC-133, *Entry Flexibility—Regular-Route Passenger Service*, and it is no longer appropriate or necessary for the ICC to consider them in connection with Greyhound's Little Rock application.

** The BRRA, moreover, provides that the ICC may not decide entry applications on the basis of general findings in rulemaking proceedings, rather than in case-by-case adjudications. BRRA §6(b), adding new 49 U.S.C. §10922(c)(5), S.A. 5; Senate Report 18. That prohibition extends to receipt here of submissions from rulemaking proceedings such as those referred to by the District of Columbia Circuit (App. 20) and to suggestions of that court that the ICC make in this instance an "in-depth study" of the industry and its competitive structure (App. 18).

tion in the bus industry, the special competitive structure of that industry must be addressed in any consideration of regulatory reform.

"The competitive environment in which the bus industry must operate also sets it apart. . . .

"The automobile has provided especially strong competition, although the bus industry has had its revenues drained by airline and train services as well. Airline regulatory reform has [intensified] the competition for bus passengers, and Amtrak is providing further [competition] to the bus industry on certain important corridor routes.

* * *

"Statistics reveal the predominance of Greyhound Lines, Inc., and its subsidiaries in the overall intercity bus market. However, if one is to view that market in proper perspective, it is also necessary to consider the National Trailways Bus System's coordinated network of transcontinental bus service. The network is basically an alliance of bus companies comprised of Trailways, Inc., its controlled subsidiaries, and about 47 independent bus companies.

* * *

"After reviewing this history and the current regulatory climate, the Committee reached the position that reforms were required. . . .

"The reforms, which are set forth in detail in the section-by-section analysis, establish a new regulatory scheme at the Federal level. . . ." Senate Report 2-5.

It should no longer be necessary or even appropriate for the ICC to conduct any more studies of the bus industry.* It should now be sufficient that the ICC, as the agency entrusted with implementation of the new law, have an opportunity to effectuate all of its terms and purposes, without the distraction of the observations, instructions and suggestions contained in the judgment and opinion below, which were made prior to the change in the law.

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* The BRRA also expresses Congressional hostility toward such uneconomic limitations on carrier authority as "closed-door" restrictions similar in effect to the limitations on Greyhound's Little Rock service. BRRA §7, adding new 49 U.S.C. §§10922(j)(3), (4), S.A. 6-7.

II. ONCE THERE IS A CHANGE IN THE APPLICABLE LAW UNDER WHICH THE ACTIONS OF THE ICC WERE REVIEWED BELOW, THE OUTCOME OF THAT PRIOR REVIEW CAN NO LONGER STAND AND REMAND TO THE IMPLEMENTING AGENCY IS IN ORDER

When, as in this instance, applicable law changes before the process of adjudication has been completed, neither this Court nor those courts and agencies subject to its review should continue to proceed as though no change had occurred. As this Court has observed, "a court is to apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary." *Bradley v. Richmond School Board*, 416 U.S. 696, 711 (1974). The Court should, as it has in the past, grant certiorari, vacate the judgment, and remand the case for disposition in light of the new law. *Costle v. Republic Steel Corp.*, 434 U.S. 1030 (1978); *Carpenter v. Wabash Ry. Co.*, 309 U.S. 23 (1940).* As of the effective date, less than 60 days from now, the ICC will be authorized to apply to route applications the very different entry standards of this reform legislation. *See* new 49 U.S.C. §§10922(c)(1)(A), (3), (5). S.A. 3–5.**

Such action by this Court could not possibly result in "manifest injustice" to anyone, including respondents. On the contrary, if the ICC considered Greyhound's Little Rock application on a basis different from that of all other applications, in clear opposition to the will

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* Where the law changed after certiorari was granted or probable jurisdiction was noted, the Court has also vacated the judgment and remanded the case. *Beltran v. Meyers*, 451 U.S. 625 (1981); *Fusari v. Steinberg*, 419 U.S. 379 (1975). *See also* the remand in *Public Service Commission v. Federal Power Commission*, 361 U.S. 195, 197 (1959). Remand to the ICC will conserve judicial resources as well as encourage early implementation of the regulatory reforms sought by Congress.

** If the Court decides this petition before the effective date, it should still apply the new law. In *Beltran v. Meyers*, *supra*, the Court found it inappropriate to decide the case under the old statute when an amendment which changed the law was about to take effect in six weeks. In *Bradley*, *supra*, the Court, interpreting *Thorpe v. Housing Authority of the City of Durham*, 393 U.S. 268 (1969), observed that "even where the intervening law does not explicitly recite that it is to be applied to pending cases, it is to be given recognition and effect." 416 U.S. at 715. No statutory direction or legislative history supports any other result or suggests that the BRRA should not be applied to pending cases such as this.

of Congress, that would entail "manifest injustice" to Greyhound and to the public.* An interpretation which would restrict the benefits of the BRRA by restricting its provisions to applications filed after the effective date would be clearly inconsistent with its purposes.

CONCLUSION

Because the recently enacted Bus Regulatory Reform Act of 1982 makes a material and fundamental change in the applicable law governing the subject matter of this petition, the Court should grant certiorari, vacate the judgment below, and remand the case to the District of Columbia Circuit with a direction to remand to the ICC with a simple instruction to make such disposition thereof as the ICC deems appropriate in light of that Act.

Dated: Washington, D.C.
September 30, 1982

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* Nothing in the application of the BRRA to this matter gives rise to concerns such as those voiced in *Greene v. United States*, 376 U.S. 149 (1964), the example given in *Bradley*, 416 U.S. at 716-17, of "manifest injustice." In this case, what is involved are not rights to restitution for wrongs committed in the past, but rather the appropriate disposition the ICC should now make of an application to serve future transportation needs in light of the BRRA.

Supplemental Appendix

BUS REGULATORY REFORM ACT OF 1982
– Excerpts –

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bus Regulatory Reform Act of 1982".

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary and burdensome Government regulation.

CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel-efficient motor bus system contributes to the maintenance of a strong national economy and a strong national defense and is vital to the transportation needs of the elderly, handicapped, and the poor; that the statutes governing Federal regulation of the motor bus industry are outdated and must be revised to reflect the future transportation needs and realities; that historically the existing Federal and State regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the motor bus industry; that State regulation of the motor bus industry has, in certain circumstances, unreasonably burdened interstate commerce; that overly protective regulation has resulted in operating inefficiencies and diminished price and service competition in the motor bus industry; that the objectives contained in the national transportation policy can best be achieved through greater competition and reduced regulation; that in order to reduce the uncertainty felt by the Nation's motor bus industry and those persons and communities that rely on its services, the Interstate Commerce Commission

should be given explicit direction for reduced regulation of the motor bus industry and should do everything within its power to promote competition in the motor bus industry; and that legislative and resulting changes should be implemented without unnecessary disruption to the transportation system consistent with the scope of the reforms enacted.

* * * * * *

NATIONAL TRANSPORTATION POLICY

SEC. 5. Subsection (a) of section 10101 of title 49, United States Code, is amended by striking out "and in regulating those modes" and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "and—

"(1) in regulating those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, passengers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (C) allow the most productive use

of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers and intrastate bus services; (F) provide and maintain commuter bus operations; (G) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (H) promote greater participation by minorities in the motor carrier system; and (I) promote intermodal transportation; and

"(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.".

MOTOR CARRIER OF PASSENGERS ENTRY POLICY

SEC. 6. (a) Subsection (a) of section 10922 of title 49, United States Code, is amended (1) by striking out "II or", and (2) by striking out "motor common carrier of passengers or water common carrier, respectively," and inserting in lieu thereof "water common carrier".

(b) Section 10922 of title 49, United States Code, is amended by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) (and any references thereto) as subsections (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and by inserting after subsection (b) the following new subsection:

"(c) (1) Except as provided in this section—

"(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and shall

issue a certificate to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

* * * * * * *

"(3) In making any findings relating to public interest under paragraphs (1) (A) and (2) (B) of this subsection, the Commission shall consider, to the extent applicable—

"(A) the transportation policy of section 10101(a) of this title;

"(B) the value of competition to the traveling and shipping public;

"(C) the effect of issuance of the certificate on motor carrier of passenger service to small communities; and

"(D) whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system; except that diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to s pport a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route system.

"(4) The provisions of paragraph (1) of this subsection relating to the Commission finding that transportation to be authorized by issuance of a certificate is not consistent with the public interest shall not apply to any application under this subsection for authority to provide—

"(A) interstate transportation service to any community not regularly served by a motor common carrier of passengers under this section;

"(B) interstate transportation service which will be a substitute for discontinued rail or commercial air passenger service to a community if such discontinuance results in such community not having any rail and commercial air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

"(C) interstate transportation service to any community with respect to which the only motor common carrier of passengers providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to discontinue or reduce its level of intrastate service to such community under section 10935 of this subchapter.

"(5) The Commission may not make any finding under paragraphs (1) and (2) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(6) The requirement that persons issued certificates under this subsection be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.

"(7) No motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i) (4) of this title unless—

"(A) (i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the traveling public; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

* * * * * * *

(c) Paragraph (4) of subsection (e) of section 10922 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended to read as follows:

"(4) A certificate of a motor common carrier to transport passengers shall be deemed to include permissive authority to transport newspapers, baggage of passengers, express packages, or mail in the same motor vehicle with the passengers, or baggage of passengers in a separate motor vehicle.".

(d) (1) Section 10102 of title 49, United States Code, is amended by redesignating paragraphs (5) through (29), and any references thereto, as paragraphs (6) through (30), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) 'commuter bus operations' means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and utilized primarily by passengers using reduced-fare, multiple-ride, or commutation tickets during morning and evening peak period operations.".

* * * * * * *

RESTRICTION REMOVAL

SEC. 7. Section 10922(i) of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by adding at the end thereof the following new paragraphs:

"(3) On the effective date of this paragraph, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authorize (but not require)—

"(A) round-trip operations where only one-way authority exists; and

"(B) special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

"(4) Upon request of any person issued a certificate to provide interstate transportation of passengers under this section, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be provided.".

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EFFECTIVE DATE

SEC. 31. (a) Except as provided in subsections (b) and (c) of this section, this Act shall take effect on the 60th day after the date of enactment of this Act.

(b) The amendment made by section 10(e) (4) of this Act shall take effect on October 1, 1982.

(c) The provisions of sections 6(g) and 30 of this Act shall take effect on the date of enactment of this Act.